

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:)
)
EASTERN LIVESTOCK CO., LLC,) CASE NO. 10-93904-BHL-11
)
Debtor.)

**SUPPLEMENTAL OBJECTION TO TRUSTEE'S MOTION TO TRANSFER FUNDS
AND NOTICE OF RELEASE OF PROCEEDS FROM ACCOUNT**

The First Bank and Trust Company ("First Bank"), by counsel, for its Supplemental Objection to Trustee's Purchase Money Claims Report, Motion to Transfer Funds and Notice of Release of Proceeds From Account ("Supplemental Objection"), respectfully submits this Supplemental Objection. This Supplemental Objection is filed in addition to the objection filed by First Bank on May 31, 2011 [Doc. No. 519], and First Bank further states as follows:

1. This Court extended the deadline by which First Bank may file its Purchase Money Claim in the Order of April 19, 2011 [Doc. No. 465]. Yet, James M. Knauer, chapter 11 Trustee in the above-captioned matter, has requested in the Motion that the Court disallow Purchase Money Claims as secured claims against Cattle Sales Proceeds and authorize the Trustee to transfer approximately \$7,000,000.00 in Cattle Sales Proceeds to the Trustee's general operating account for use as cash collateral of Fifth Third Bank. The Trustee's Purchase Money Claims Report, Motion to Transfer Funds and Notice of Release of Proceeds from Account ("Funds Transfer Motion") [Doc. No. 501] should be denied.

2. First Bank has been diligently pursuing discovery in this proceeding, and the Gibson bankruptcy proceeding, to determine the nature and extent of its purchase money

collateral. After a contested hearing on April 15, 2011, this Court entered an order [Doc. No. 472] agreed to by the parties, authorizing First Bank to obtain discovery from three of the major feedlots with whom Eastern Livestock transacted significant business. This discovery, as well as other uncontested discovery from other major feedlots, is designed to assist First Bank in identifying its purchase money claims and is still ongoing.

3. On June 7, 2011, counsel for First Bank received a summary, prepared by Development Specialists, Inc., of the personal financial records of Thomas and Patsy Gibson for the year 2010. On June 15, 2011, counsel for First Bank, along with counsel for Gibson Trustee Kathryn Pry, met with Elizabeth Lynch and Development Specialists, Inc. to review records of the Gibsons still existing at the offices of Eastern Livestock and to obtain additional information regarding the Gibsons' personal financial records. This discovery, as well, is still in its infancy.

4. The Trustee's Funds Transfer Motion is premature, as it hastily seeks to transfer approximately \$7,000,000.00 to the Trustee's operating account, while relegating secured claimants to an unsecured status, without permitting adequate time for a complete determination of the rights and obligations of all creditors and interested parties in this matter.

5. Much of the facts in this proceeding remain undiscovered. At this stage, the only "fact" upon which the numerous parties can apparently agree is that Eastern Livestock and its insiders were engaged in a massive fraud and check kiting scheme that harmed hundreds of persons for millions of dollars. As other objections have noted, all of which are incorporated by reference, the role of the banks that honored this commercial paper – unlike First Bank¹ – over

¹ There is no evidence to indicate the inflated activity flowed through First Bank as its lending was made on purchase money accounts, confirmed by live cattle assets, and remained at consistent levels while the activity in

months of inflated activity is still unknown. There is no factual justification, at this early stage, to reward priority status to Fifth Third Bank which is precisely what the Trustee has proposed to do without affording due process to the other creditors.

WHEREFORE, First Bank respectfully requests that the Court enter an Order denying the Trustee's Funds Transfer Motion, and for all other appropriate relief.

Respectfully submitted,

/s/ Daniel J. Donnellon

Daniel J. Donnellon, pro hac vice
Stephen A. Weigand, pro hac vice
FARUKI IRELAND & COX P.L.L.
201 East Fifth Street, Suite 1420
Cincinnati, OH 45202
Telephone: (513) 632-0300
Telecopier: (513) 632-0319
Email: ddonnellon@ficlaw.com

Attorneys for The First Bank and Trust
Company

other bank accounts skyrocketed into hundreds of millions of dollars.

CERTIFICATE OF SERVICE

I hereby certify that on June 17, 2011, a true and correct copy of the foregoing Supplemental Objection to Trustee's Purchase Money Claims Report, Motion to Transfer Funds and Notice of Release of Proceeds From Account was filed electronically. Notice of this filing will be sent to all parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt
davidabt@mwt.net

C. R. Bowles, Jr
crb@gdm.com

John Hunt Lovell
john@lovell-law.net

Mark A. Robinson
mrobinson@vhlaw.com

Jesse Cook-Dubin
jcookdubin@vorys.com

Edward M King
tking@fbtlaw.com

Randall D. LaTour
rdlatour@vorys.com

John Frederick Massouh
john.massouh@sprouselaw.com

John W. Ames
jwa@gdm.com

James M. Carr
jim.carr@bakerd.com

Robert K. Stanley
robert.stanley@bakerd.com

Terry E. Hall
terry.hall@bakerd.com

Robert Hughes Foree
robertforee@bellsouth.net

Kim Martin Lewis
kim.lewis@dinslaw.com

Jeremy S Rogers
Jeremy.Rogers@dinslaw.com

Ivana B. Shallcross
ibs@gdm.com

Deborah Caruso
dcaruso@daleeke.com

Meredith R. Thomas
mthomas@daleeke.com

William Robert Meyer, II
rmeyer@stites.com

Allen Morris
amorris@stites.com

Charles R. Wharton
Charles.R.Warton@usdoj.gov

James Bryan Johnston
bjtexas59@hotmail.com

James T. Young
james@rubin-levin.net

David L. LeBas
dlebas@namanhowell.com

Judy Hamilton Morse
judy.morse@crowedunlevy.com

John M. Thompson
john.thompson@crowedunlevy.com

Jessica E. Yates
jyates@swlaw.com

John Huffaker
john.huffaker@sprouselaw.com

Matthew J. Ochs
matt.ochs@moyewwhite.com

Laura Day Delcotto
ldelcotto@dlgfir.com

Kelly Greene McConnell
lisahughes@givenspursley.com

T. Kent Barber
kbarber@dlgfir.com

Ross A. Plourde
ross.plourde@mcafeetaft.com

Jeffrey E. Ramsey
jramsey@hopperblackwell.com

Walter Scott Newbern
wsnewbern@msn.com

Kirk Crutcher
kcrutcher@mcs-law.com

Todd J. Johnston
tjohnston@mcjllp.com

Timothy T. Pridmore
tpridmore@mcjllp.com

Theodore A Konstantinopoulos

ndohbky@jbandr.com

Karen L. Lobring
lobring@msn.com

Sandra D. Freeburger
sfreeburger@dsf-atty.com

Lisa Koch Bryant
courtmail@fbhlaw.net

Elliott D. Levin
robin@rubin-levin.net
edl@trustesolutions.com

John M. Rogers
johnr@rubin-levin.net

Cathy S. Pike
cpike@weberandrose.com

John David Hoover
jdhoover@hooverhull.com

Sean T. White
swhite@hooverhull.com

Robert H. Foree

robertforee@bellsouth.net
Sarah Stites Fanzini
sfanzini@hopperblackwell.com

Michael W. McClain
mike@kentuckytrial.com

David A. Domina
ddomina@dominalaw.com

Ashley R. Rusher
asr@blancolaw.com

/s/ Daniel J. Donnellon

Daniel J. Donnellon

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